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April 9, 2024

Hon. Gregory H. Woods  
United States District Judge, S.D.N.Y.  
500 Pearl St.  
New York, New York 10007  
Via ECF

USDC SDNY  
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## MEMORANDUM ENDORSED

**RE: Corrected Consent Letter Motion for Extension of Time File Pretrial Materials  
[203]**

*Viahart, LLC v. Creative Kids Online, LLC*, No. 1:20-cv-09943-GHW (S.D.N.Y.)

Dear Judge Woods:

We represent Plaintiff Viahart LLC in this Action. We write to request an extension of the upcoming deadline for the Parties to submit pretrial materials, including the joint pretrial order, from April 19, 2024 [ECF No. 203] to May 3rd. Viahart also requests that the Court order that the Parties have an initial mutual exchange of their pretrial materials by April 19th.

Over the past four months since the Court set the deadline for pretrial materials, Viahart has prepared its version of the joint pretrial order, exhibit list, jury instructions, and other materials. Viahart attempted to establish a date for the Parties to mutually exchange their pretrial materials but has been unable to receive a clear indication about when such an exchange is reasonably certain to occur.

On March 26, 2024, Viahart inquired about whether Defendants would agree to an initial mutual exchange of pretrial materials by April 2, 2024. This date would have allowed the Parties to have more time to assert their objections than the 14 days under Rule 26(a)(3)(B). Defendants did not indicate whether they would agree to exchange materials by April 2nd.

On April 8, 2024, Defendants asked whether Viahart was opposed to extending the deadline for pretrial materials. Viahart asked when Defendants would agree to an initial exchange of pretrial materials. Defendants initially indicated that they anticipated exchanging their materials by April 12th. This date only allowed the Parties a few days to prepare quality pretrial submission that narrow the issues for trial. Accordingly, when Defendants requested an additional two weeks to file the pretrial materials, Viahart consented because this April 12th date for exchanging materials and the requested extension would provide the Parties with sufficient time to submit quality pretrial materials to the Court.

On April 9, 2024, Defendants filed their first motion to extend the deadline for the submission of the pretrial order [ECF No. 206]. The Court denied this requested extension because (1) Defendants were mistaken about an April 9th deadline and (2) Defendants provided no specific reason why five months have not been sufficient time.

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Following the Court's order, Viahart contacted Defendants regarding whether they anticipated addressing the deficiencies in their motion and whether the Parties could exchange pretrial materials sooner than April 12th. Defendants indicated that they would not be able to exchange materials until April 15th at the earliest. This date does not provide the Parties with sufficient time to prepare quality pretrial materials for the Court.

In addition, Viahart's counsel needs more time to respond to Defendants' submissions and finalize the pretrial materials despite its diligence. Viahart's counsel has limited availability on April 12th due to a funeral for a close relative and from April 15th to April 26th due to depositions set in other cases. These matters were unforeseeable because these were the only times provided by opposing counsel. Further, two other courts ordered jurisdictional discovery to occur in April and May.

A deadline for the Parties to mutually exchange pretrial materials and a brief two-week extension on the final submission date would ensure that the Parties have sufficient time to prepare quality pretrial materials.

After conferring, Defendants consent to these extensions. This is Viahart's first request for an extension on this deadline.

For these reasons, Viahart respectfully requests that the Court grant this Motion and order that the Parties must exchange their pretrial materials by no later than April 19, 2024, and the Parties must submit the pretrial materials by no later than May 3, 2024.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Christian J. Cowart', with a long horizontal flourish extending to the right.

CHRISTIAN J. COWART

cc: All counsel of record (via ECF)

Application granted in part, denied in part. Plaintiff's amended request for an extension of time to submit pretrial materials is granted in part and denied in part. Dkt. No. 209 (amended request for extension); Dkt. No. 208 (request for extension). As stated on the record at the April 11, 2024 telephonic conference, the parties are directed to exchange drafts of their joint pretrial materials (that is, proposed drafts of the joint pretrial order, jury charge, verdict sheet, summary of the case, summary of the law, and voir dire questions) no later than April 16, 2024, and the parties are to submit these joint pretrial materials no later than May 3, 2024. The deadlines for the remaining pretrial submissions, including any motion in limine, as specified in Rule 5 of the Court's Individual Rules of Practice in Civil Cases, remain as set forth in the Court's November 14, 2023 trial scheduling order. Dkt. No. 203. The Clerk of Court is directed to terminate the motions pending at Dkt. Nos. 208, 209.

SO ORDERED.

Dated: April 11, 2024

A handwritten signature in black ink, appearing to read 'Gregory H. Woods', with a horizontal line underneath it.

GREGORY H. WOODS  
United States District Judge